IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Suder et al.	Art Unit	: 2616
Serial No.	: 10/072,343	Examiner	: Hanh Nguyen
Filed	: February 7, 2002	Conf. No.	: 4155
Title	: QUALITY OF SERVICE IN A REMOTE TELEPHONE		

Mail Stop Appeal Brief - Patents
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APPEAL BRIEF

I. REAL PARTY-IN-INTEREST

The real party in interest is Estech Systems, Inc., which is the assignee of the entire right and interest in the present Application.

II. RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences known to Appellants, the Appellants' legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-46 are pending in the Application.

Claims 35-46 are allowed.

Claims 1, 4-12, 14-34 stand rejected, and are hereby appealed.

Claims 2-3 and 13 are objected to.

IV. STATUS OF AMENDMENTS

Amendments to the claims are concurrently filed with this Appeal Brief in order to place objected to claims 2-3 and 13 in independent form.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claim 1 recites an information handling system comprising a modem, a first telephony device coupled to the modem, and a first network device coupled to the modem through the first telephony device, wherein the first telephony device includes first circuitry for throttling data sent from the first network device. This is shown in Figure 3 with the modem 310 having a first telephony device 313 coupled to the modem 310, and a first network device 312 coupled to the modem 310 through the first telephony device 313. Page 7, line 2 – page 8, line 18. Figure 2 illustrates more detail regarding telephony device 313. Figure 4 illustrates a simplified flow diagram of how a jitter buffer throttles data packets received by the IP telephony device from the first network device. Page 11, line 11 – page 13, line 16.

Claim 16 claims an information handling system comprising a modem, a telephone coupled to the modem, and a workstation coupled to the modem through the telephone, the method comprising the steps of transferring data from the workstation to the telephone, wherein the data sent from the workstation is addressed for transmission to a network via the modem, communicating audio information between the telephone and the network, and sufficiently throttling the data sent from the workstation to the telephone to increase a rate of transfer of the audio information during the communicating step. Such an information handling system is again shown in Figure 3, where the modem 310, the IP telephone 313, and the workstation 312 are illustrated. Figure 4 also illustrates the process for throttling data sent from the workstation to the telephone while Figures 5 and 6 illustrate further processes for throttling such data using various throttling modes. Page 14, line 4 – page 15, line 22.

Claim 22 recites similar limitations as in Claim 16, where the modem is coupled to a wide-area network 201. Such a wide-area network is illustrated in Figure 3. Claim 22 claims an information handling system comprising a modem, a telephone coupled to the modem, and a workstation coupled to the modem through the telephone, the method comprising the steps of transferring data from the workstation to the telephone, wherein the data sent from the workstation is addressed for transmission to a network via the modem, communicating audio information between the telephone and the network, and sufficiently throttling the data sent from

the workstation to the telephone to increase a rate of transfer of the audio information during the communicating step. Such an information handling system is again shown in Figure 3, where the modem 310, the IP telephone 313, and the workstation 312 are illustrated. Figure 4 also illustrates the process for throttling data sent from the workstation to the telephone while Figures 5 and 6 illustrate further processes for throttling such data using various throttling modes. Page 14, line 4 – page 15, line 22.

Claim 30 recites a telephony device 313 comprising an input data port 815 for receiving data, where the data is addressed for transmission to a location other than the telephony device 313 through an output port 816 on the telephony device 313. Further illustrated in Figure 2 is circuitry for communicating information to and from the telephony device, with such circuitry including the various microphone 822, speaker 821, CODEC 819, handset 818, CODEC 817, DSP 801, FPGA 802, etc. for permitting a user to communicate information using the IP telephone 313. Page 9, line 3 – page 11, line 10. The jitter buffer is described with respect to Figure 7, and is implemented in software. This software is described in the specification in page 13, line 17 - page 14, line 3. The jitter buffer may be implemented in software within the DSP 801. Page 9, line 18 – page 10, line 12. The circuitry for throttling the data is implemented in software within the device 313, and as described in Figures 4-6.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1, 4-12, 14-27 and 30-34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Murphy* (U.S. Patent No. 6,856,613) in view of *Sen et al.* (U.S. Patent No. 6,330,451).

2. Claims 28-29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Murphy* in view of *Sen* and further in view of *Fuller et al.* (U.S. Patent No. 7,203,186).

VII. ARGUMENTS

1. Claims 1, 4-12, 14-27 and 30-34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Murphy* (U.S. Patent No. 6,856,613) in view of *Sen et al.* (U.S. Patent No. 6,330.451). In response, Applicants respectfully traverse these rejections.

The Cited References do not Disclose a Network Device Coupled to a Modem Through a Telephony Device

Claim 1 recites "a first network device *coupled to the modem through the first telephony device*." Claim 16 recites "a telephone coupled to the modem, and a workstation *coupled to the modem through the telephone*." Claim 22 recites "a telephony device *coupled between a network device and a modem*." The *Murphy* and *Sen* references, either alone or in combination, do not teach or suggest the above recited features.

In contrast, *Murphy* figure 1 specifically teaches that network and telephony devices 14C-14D are separately connected to IP Network 30, without any indication or suggestion of coupling through one another. *Sen* has the same deficiency. For example, in *Sen* figure 2 the computer 116 and telephone 114 are separately connected to the PSTN 110 without coupling through one another. Clearly, the combination of *Murphy* and *Sen* does not teach, nor suggest, coupling a first network device to a modem through a first telephony device.

The Examiner references Fuller et al. (U.S. Patent No. 7,203,186 B1, hereafter "*Fuller*") in an attempt to show that the configuration of a modem coupled to the IP telephone is well-known in the art. However, even if *Fuller* were to show that the use of a modem in VoIP communications systems *in general* is well-known, the reference does not show that the *specific configuration* recited in claims 1, 16, and 22 (emphasized above) is common in the art. For example, *Fuller* figure 1 shows IP telephone 18 and computer systems 17 are not coupled through one another. The addition of *Fuller* does not remedy the deficiencies of *Murphy* and *Sen*. As a result, one skilled in the art would not have combined *Fuller* with *Murphy* and *Sen* to arrive at the limitations in the claims, since a combination of these references does not suggest coupling a network device to a modem through a telephony device.

Furthermore, the Examiner has not officially combined the *Fuller* reference with the *Murphy* and *Sen* references to arrive at the current 103(a) rejection, and has provided no

independent evidence to support a finding that such a combination is warranted. For this reason alone, since the Examiner is relying upon *Fuller* to suggest the rejection, the Examiner's *prima facie* case of obviousness fails. Nevertheless, the *Fuller* art alone or in combination with *Murphy* and *Sen* still does not make obvious the limitations in the claims for the foregoing reasons.

As described above, neither *Murphy* or *Sen*, either alone or in combination, disclose a "network device coupled to the modem through the first telephony device" (claim 1), "a workstation coupled to the modem through the telephone" (claim 16), or "a telephony device coupled between a network device and a modem" (claim 22). Therefore, the limitations of the claims would not have been obvious to one of ordinary skill at the time of invention.

In the Response to Arguments of the Final Rejection, the Examiner provides a couple of assumptions in support of his rejections. First, the Examiner asserts that "it would have been obvious ... to ... couple the voip telephone 14c between the endpoint 14D and voice gateway 32." (It should be noted that the Examiner is now asserting that it is well-known for a gateway to include a modem; Applicants respectfully assert that the Examiner must support such an assertion with objective evidence.) This assertion is in view of the Examiner's admission that *Murphy* does not disclose "a telephone device coupled between the endpoint 14D and the voice gateway 32," and the fact that the Examiner provides no evidence or assertion that *Sen* discloses a telephony device coupling a network device to a modem. The only thing the Examiner relies upon is an assertion that *Sen* "has shown that the computer device 116 is coupled to telephone 114." What the Examiner does not point out is that this coupling is through the PSTN 110. Furthermore, the Examiner continues to ignore the specific claim language that describes how these devices are structurally coupled to each other. There is absolutely nothing in the prior art that supports a suggestion to couple a telephone between the endpoint 14D and the gateway 32. The second assumption made by the Examiner is that "it would have been obvious ... to ... implement the delay element 105 of *Sen et al.* into VOIP telephone 14C of *Murphy* as a circuit for throttling data sent from the network device/endpoint 14D." The Examiner apparently makes this assumption from the disclosure in *Murphy* that VOIP phone 14C can provide packet throttling. Applicants traverse since the "throttling" in *Murphy* is not the same as the "delaying" in *Sen*. In *Murphy*, the "throttling" pertains to increasing the packet sizes so that the same

amount of audio data can be switched in the gateway with fewer packets. Col. 2, lines 10-30. This is not the same as the delay of data in *Sen* in order to permit the single channel to have more bandwidth available for the audio communications through the base station controller 104. Col. 6, lines 25-55. Therefore, one skilled in the art would not have been motivated to use the delay element 105 of *Sen* in the telephone 14C of *Murphy* because their operations are not compatible.

The Cited References Do Not Disclose Circuitry for Throttling Data Sent from the First Network Device to the Telephone

Claim 1 recites "the first telephony device includes first circuitry for throttling data sent *from the first network device.*" Claim 16 recites "throttling data sent *from the workstation to the telephone*...." Claim 22 recites "sufficiently throttling the data *from the network device to the telephone device*...."

As the Examiner concedes on page 3 of the office action, *Murphy* does not disclose a telephone device that includes a circuitry for throttling data sent from the first network device and the telephone coupled to a modem. The Examiner's rejection specifically relies upon the teachings of *Sen* to address this limitation. However, the addition of *Sen* fails to remedy this deficiency. *Sen* specifically teaches a system that services high bandwidth data communication between data communication subscriber 130 and computer 116 on a single channel. Column 6, lines 30-39. Contrary to the Examiner's position, delay element 105 in *Sen* does not meet the claim limitations recited above because it only throttles data sent between computer 116 and subscriber 130. Though the channel in *Sen* is shared with voice communications (column 6, lines 33-41) there is no throttling of data destined for the telephone in *Sen*, as required by the claim limitations.

Furthermore, the incorporation of the delay element 105 taught in *Sen* within the VoIP phone 14C of *Murphy* would fail to arrive at the limitations of the claims. In such a scenario, the data to be throttled from the VoIP phone 14C would be sent from the VoIP phone itself and not from a first network device, as required by the limitations in the claims. As each of the elements of claims 1, 16, and 22 have not been rendered obvious in light of the prior art, the claims are allowable.

The Cited References do not Disclose Transferring Data from the Network Device to the Telephone wherein the Data is Addressed for Transmission to a Network

Claim 16 recites "transferring data from the workstation *to the telephone*, wherein the data sent from the workstation is addressed for transmission to a network...." Claim 22 recites "transferring data from the network device *to the telephone* device where the data is addressed for transmission through the telephony device to the wide area network...." Claim 30 recites "a telephony device comprising an input data port for receiving data, wherein the data is addressed for transmission to a location other than the telephony device through an output port on the telephony device...." The Examiner has not specifically addressed this claim language, and thus the claims are patentable since the Examiner has failed to establish a *prima facie* case of obviousness.

The Cited References do not disclose an input data port for receiving data or an output port on the telephony device

Claim 30 recites "a telephony device comprising *an input data port*...." The claim further recites "data is addressed for transmission to a location other than the telephony device *through an output port* on the telephony device...." As mentioned above, the Examiner has not specifically addressed this claim language, and thus the claim is patentable since the Examiner has failed to establish a *prima facie* case of obviousness.

Nevertheless, neither *Murphy* nor *Sen* disclose an input data port or output port on the telephony device, as required by the claim limitations. The teaching of endpoints 14A-14D of *Murphy* is devoid of any disclosure of an "input data port for receiving data" or "an output port on the telephony device." *See* column 2, line 50 – column 3, line 16. Likewise, *Sen* teaches the operation of telephone 114 and phone 120 without disclosing either an input data port or an output port on the telephony devices. Column 4, lines 15-65; column 6, lines 30-34. Additionally, neither *Murphy* nor *Sen* teach "data addressed for transmission to a location other than the telephony device." As a result, the cited prior art references, either alone or in combination, fail to teach or suggest the limitations recited in claim 30.

In the Response to Arguments of the Final Rejection, the Examiner merely asserts "that one skilled in the art should understand in *Murphy*, the VOIP 14C telephone is coupled to IP network 30 should have an input port such as a microphone or output port such as a speaker." Such an unsupported assertion is devoid of any logic and does not relate back to the specific claim recitations. A microphone on a telephone is not an input data port for receiving data, wherein that data is addressed for transmission to another location. Such an assertion is interpreting the claims in an unreasonably broad manner not taking into account how such claim limitations are supported in the specification or how those skilled in the art would typically interpret them. MPEP § 2111. The Examiner has not explained how spoken words are "addressed for transmission to a location." Furthermore, the examiner provides no explanation how such spoken words are addressed for transmission from the telephone to the speaker on the telephone. See *Id.*

Additional Limitations of Dependant Claims are Absent in the Cited References

Claim 7 recites "the first throttling circuitry *reduces a future amount of data* from being transferred from the first network device...." Claim 8 recites "throttling circuitry reduces a *future amount of data* from being transferred from the first network device." Claim 19 recites "the step of *reducing a future amount of data* from being transferred...." Claim 23 recites "the throttling step *reduces a future amount of data* from being transferred from the network device to the telephony device."

Applicants respectfully assert that *Murphy* does not disclose throttling circuitry that reduces the future amount of data sent, contrary to the Examiner's assertion on page 4 of the office action. The throttling circuitry in *Murphy* is located within the network, and is not located within the telephony device as recited in claims 1 and 8. Thus, the combinations of the reference do not teach or suggest the limitations recited in the claims.

Claim 8 further recites "the first telephony device includes circuitry ... wherein the circuitry reduces a future amount of data from being transferred from the first network device *if the amount of data addressed to and received by the first telephony device falls below a predetermined threshold*." The Examiner has not specifically addressed this claim language, and

thus the claim is patentable since the Examiner has failed to establish a *prima facie* case of obviousness.

Nevertheless, the teachings of *Murphy* and *Sen* fail to address the limitations of the claim. The limitation requiring that the "circuitry reduces a future amount of data from being transferred from the first network device if the amount of data addressed to and received by the first telephony device *falls below a predetermined threshold*" is not met. Contrary to the limitations of the claims, the buffer load monitor 48 in *Murphy* monitors the current free queue 52 to determine when a throttle condition exists, not the amount of data. Column 5, lines 31-35. Likewise, the QoS manager 460 in *Sen* performs computations to determine the number of data communications to be delayed and the delay to be introduced into each delayed communication. Column 11, lines 30-34. *Sen* does not teach that the QoS manager operates once data "falls below a predetermined level." Thus, neither of these teachings, either alone or in combination arrive at the limitations of claim 8.

Claim 9 recites "monitoring circuitry *comprises* a jitter buffer where the predetermined threshold is a predetermined level within the jitter buffer." Neither *Murphy* nor *Sen* teach monitoring circuitry comprising a jitter buffer. *Murphy* figure 2 teaches that CPU 25 comprises buffer load monitor 48. *Murphy* figure 2 also teaches that buffer 24 comprises current free queue 52. Buffer load monitor 48 monitors current free queue 52 to determine when a throttle condition exists. Column 5, lines 31-32. However, neither CPU 25 nor buffer load monitor 48 comprise a jitter buffer as required by the above claim limitations. Rather, *Murphy* figure 2 teaches that CPU 25 and buffer load monitor 48 are separate from buffer 24. The addition of *Sen* does not make the case for obviousness any more plausible, as *Sen* offers no teaching of a buffer. Thus the teachings of the cited references, either alone or in combination do not arrive at the limitations of claim 9.

Claim 10 recites the "throttling circuitry has a plurality of throttling levels." The Examiner has not specifically addressed this claim language, and thus the claim is believed to be patentable since the Examiner has failed to establish a *prima facie* case of obviousness.

Claims 11 recites "the first throttling circuitry includes a mode level...." Contrary to the Examiner's assertion, *Murphy* does not disclose such a mode level in column 3, lines 30-35. *Murphy* teaches the throttling of the rate of VoIP packets 26 by varying the number of samples of

the audio bitstream 18. Column 3, lines 34-35. However, the Examiner has expanded this language in *Murphy* to include the recital of a mode level in arriving at the rejection of claim 11. No objective evidence from *Murphy* has been offered to support this interpretation. As a result, the Examiner's interpretation amounts to an unreasonably broad interpretation of the teachings of *Murphy*. MPEP §2111.

Claim 14 recites "data sent from the first network device is sufficiently throttled so that the first telephony device can communicate real-time multimedia signals to and from the modem." On page 4 of the office action, the Examiner relies upon *Sen* to disclose the required limitations that are absent in *Murphy*. The language relied upon in *Sen* recites "[t]he manner in which the data communications are managed is by selectively delaying data communications within wired portions of the wireless communications system so that they proceed across the wireless links at a lesser data rate." Column 5, lines 31-35. Applicants respectfully assert that this language fails to teach "the first telephony device can communicate real-time multimedia signals to and from the modem." Furthermore, the Examiner has attempted to combine *Murphy* and *Sen* on page 5 of the office action in order to show that it would have been obvious to one of ordinary skill in the art to throttle sufficient bandwidth in multimedia transmissions so that voice is prioritized over real-time transmissions. However, claim 14 recites "data sent from the first network device is sufficiently throttled *so that the first telephony device can communicate real-time multimedia signals* to and from the modem." The Examiner's argument that the cited references teach the *throttling of multimedia signals* fails to meet the above cited limitations of claim 14. Thus, the limitations of claim 14 are not obvious in light of the cited references, whether they are considered alone or in combination.

Claim 15 specifically recites a modem, yet the Examiner's appeal to *Murphy* figure 1 on page 5 of the rejection fails to disclose such an element. As the Examiner has not specifically addressed the claim language within claim 15, the claim is therefore patentable since the Examiner has failed to establish a *prima facie* case of obviousness.

The Examiner fails to address the particularity of claims 20 and 21, referring in the rejection only to the monitoring of a predetermined level within a jitter buffer, as addressed in previous rejections. Thus, the Examiner has not specifically addressed the claim language within

claims 20 and 21 and these claims are patentable since the Examiner has failed to establish a *prima facie* case of obviousness.

Claim 31 recites "the jitter buffer temporarily stores the information." Neither of the cited references teaches this limitation. To the contrary, *Murphy* teaches that a percentage of DSPs 22 are throttled, rather than dropping packets when a throttling condition is detected. Column 4, lines 16-26. There is no mention of the storage of information in this process. Additionally, the flowchart in *Murphy* figure 3, which explains how the disclosed packet throttle software operates, also fails to teach the temporary storage of information. *Sen* does not remedy this deficiency. Though *Sen* discloses a method for adding delay via delay element 105 (column 6, lines 66-67), there is no teaching of the temporary storage of information. Rather, *Sen* teaches the increase of RTD as a means of ultimately reducing the data rate of communications from computer 130. Column 7, lines 1-4. Therefore, one skilled in the art at the time the invention was made would not have combined the teachings of *Murphy* with the teachings of *Sen* to arrive at the limitations of claim 31.

Claim 32 recites "level 2 switching circuitry for handling the information and data." On page 5 of the rejection, the Examiner asserts that *Murphy* discloses an IP telephone with level 2 switching circuitry in column .5, lines 20-27. However, this language fails to address the limitations set forth in the claim. Specifically, the office action has not explained how the recited language equates to level 2 switching circuitry. There is not even a mention of level 2 switching within either *Murphy* or *Sen*.

2. Claims 28 and 29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Murphy* in view of *Sen* and further in view of *Fuller*. In response, Applicants respectfully traverse this rejection.

Claims 28 and 29 are patentable for reasons given above with respect to claim 1, since the Examiner refers to the combination of the cited references used in rejecting claim 1 as a basis for rejecting claims 28 and 29 on page 6 of the office action.

Claim 29 recites "a router coupled between the modem and telephony device." Contrary to the Examiner's assertion on page 6 of the office action, *Fuller* in combination with *Murphy* and *Sen* does not disclose a modem 22 coupled to an IP phone 18 via a router. No router is

present in figure 1 of *Fuller*. Since neither *Murphy* nor *Sen* teach the use of a router either, the combination of these references with *Fuller* does not arrive at a router coupled between the modem and telephony device as required by claim 29 either. Accordingly, a limitation of the claimed invention is not met through the combination of the cited prior art references. As a result, the office action has failed to establish a *prima facie* case of obviousness in rejecting claim 29.

Furthermore, the rejection has overlooked the requirement that the "router [be] coupled between the modem and telephony device." The rejection asserts that "it would have been obvious to transmit multimedia data comprising voice, data [sic] in Murphy with data being throttled for increasing the rate of voice communication to enhance qos in VOUIP [sic] network." Such an obviousness assertion is without any objective support, which is required under the case law. Nothing in the references suggest that a router be coupled between the modem and the telephony device, as required by the claim limitations. Therefore, one skilled in the art at the time the invention was made would not have combined the teachings of *Fuller* with the teachings of *Murphy* and *Sen* to arrive at the claim limitations. The *Murphy* and *Sen* references combined do not teach or suggest the limitations of claims 28 and 29, and merely adding a teaching from *Fuller* with *Murphy* and *Sen* does not bolster the obviousness arguments for the foregoing reasons.

Respectfully submitted,

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CLAIMS APPENDIX

1. [rejected] An information handling system comprising:

a modem;

a first telephony device coupled to the modem; and

a first network device coupled to the modem through the first telephony device, wherein the first telephony device includes first circuitry for throttling data sent from the first network device.

2. [amended & allowable] An information handling system comprising:

a modem;

a first telephony device coupled to the modem;

a first network device coupled to the modem through the first telephony device, wherein the first telephony device includes first circuitry for throttling data sent from the first network device;

a router coupled between the first telephony device and the modem; and

a second network device coupled to the router through a second telephony device, wherein the second telephony device includes second circuitry for throttling data sent from the second network device.

3. [allowable] The system as recited in claim 2, wherein the router, modem, first telephony device, and first network device are coupled to each other via a network.

4. [rejected] The system as recited in claim 1, wherein the network is a TCP/IP network.

5. [rejected] The system as recited in claim 4, wherein the network is a packet switched network.

6. [rejected] The system as recited in claim 1, wherein the first telephony device communicates using an IP protocol.

7. [rejected] The system as recited in claim 1, wherein the first throttling circuitry reduces a future amount of data from being transferred from the first network device if the amount of data exceeds a predetermined threshold.

8. [rejected] The system as recited in claim 1, wherein the first telephony device includes circuitry for monitoring an amount of data addressed to and received by the first telephony device, wherein the first throttling circuitry reduces a future amount of data from being transferred from the first network device if the amount of data addressed to and received by the first telephony device falls below a predetermined threshold.

9. [rejected] The system as recited in claim 8, wherein the monitoring circuitry comprises a jitter buffer where the predetermined threshold is a predetermined level within the jitter buffer.

10. [rejected] The system as recited in claim 8, wherein the first throttling circuitry has a plurality of throttling levels.

11. [rejected] The system as recited in claim 8, wherein the first throttling circuitry includes a mode level in which the first throttling circuitry should operate.

12. [rejected] The system as recited in claim 11, wherein the first throttling circuitry adjusts its level of throttling of the data in response to the mode level.

13. [amended & allowable] An information handling system comprising:

a modem;

a first telephony device coupled to the modem; and

a first network device coupled to the modem through the first telephony device, wherein the first telephony device includes first circuitry for throttling data sent from the first network device, wherein the first telephony device includes circuitry for monitoring an amount of data addressed to and received by the first telephony device, wherein the first throttling circuitry reduces a future amount of data from being transferred from the first network device if

the amount of data addressed to and received by the first telephony device falls below a predetermined threshold, wherein the first throttling circuitry includes a mode level in which the first throttling circuitry should operate, wherein the first throttling circuitry adjusts its level of throttling of the data in response to the mode level, wherein the mode level is a most aggressive mode, wherein the first throttling circuitry will throttle the future amount of data sent from the first network device at a highest level in response to the mode level being in the most aggressive mode.

14. [rejected] The system as recited in claim 1, wherein the data sent from the first network device is sufficiently throttled so that the first telephony device can communicate real-time multimedia signals to and from the modem.

15. [rejected] The system as recited in claim 1, wherein the modem is operable for coupling to a wide area network.

16. [rejected] In an information handling system comprising a modem, a telephone coupled to the modem, and a workstation coupled to the modem through the telephone, a method comprising the steps of:

transferring data from the workstation to the telephone, wherein the data sent from the workstation is addressed for transmission to a network via the modem;

communicating audio information between the telephone and the network; and

sufficiently throttling the data sent from the workstation to the telephone to increase a rate of transfer of the audio information during the communicating step.

17. [rejected] The method as recited in claim 16, wherein the network is a TCP/IP network.

18. [rejected] The method as recited in claim 16, wherein the network is a packet switched network.

19. [rejected] The method as recited in claim 16, wherein the throttling step further comprises the step of reducing a future amount of data from being transferred from the workstation if the amount of data exceeds a predetermined threshold.

20. [rejected] The method as recited in claim 16, wherein the throttling step further comprises the step of monitoring an amount of the audio information being received by the telephone.

21. [rejected] The method as recited in claim 20, wherein the monitoring step further comprises the step of monitoring a predetermined level within a jitter buffer.

22. [rejected] In an information handling system comprising a telephony device coupled between a network device and a modem, wherein the modem is coupled to a wide area network, a method comprising the steps of:

transferring data from the network device to the telephony device where the data is addressed for transmission through the telephony device to the wide area network via the modem;

communicating multimedia information between the telephony device and the wide area network; and

sufficiently throttling the data from the network device to the telephone device to increase available bandwidth for communication of the multimedia information between the telephony device and the wide area network.

23. [rejected] The method as recited in claim 22, wherein the throttling step reduces a future amount of data from being transferred from the network device to the telephony device if an amount of data being transferred from the network device exceeds a predetermined threshold.

24. [rejected] The method as recited in claim 23, wherein the throttling step monitors a jitter buffer level to determine if the amount of data being transferred from the network device exceeds the predetermined threshold.

25. [rejected] The method as recited in claim 23, wherein the network device is a workstation and the telephony device is a digital telephone.

26. [rejected] The method as recited in claim 23, wherein the telephony device is an IP telephone with level 2 switching circuitry.

27. [rejected] The method as recited in claim 26, wherein the network device is a workstation.

28. [rejected] The method as recited in claim 27, wherein the modem communicates the data and the multimedia information to the wide area network.

29. [rejected] The method as recited in claim 28, wherein a router is coupled between the modem and telephony device.

30. [rejected] A telephony device comprising:

an input data port for receiving data, wherein the data is addressed for transmission to a location other than the telephony device through an output port on the telephony device;

circuitry for communicating information to and from the telephony device;

a jitter buffer; and

circuitry for sufficiently throttling the data in response to a predetermined level being exceeded within the jitter buffer so that the communication of the information can be performed in real-time.

31. [rejected] The telephony device as recited in claim 30, wherein the jitter buffer temporarily stores the information.

32. [rejected] The telephony device as recited in claim 30, further comprising:

level 2 switching circuitry for handling the information and data.

33. [rejected] The telephony device as recited in claim 30, wherein the data and the information are communicated using IP protocol.

34. [rejected] The telephony device as recited in claim 30, wherein the predetermined level in the jitter buffer is an amount of the information temporarily stored in the jitter buffer.

35. [allowed] A system comprising:

a wide area network ("WAN");

a first modem for coupling to the WAN;

a first IP telephone coupled to the first modem;

a first network device coupled to the first modem via the first IP telephone so that data communicated between the first network device and the first modem is switched through the first IP telephone; and

a second IP telephone coupled to the WAN,

wherein the first IP telephone includes circuitry for throttling the data communicated between the first network device and the first modem so as to increase a bandwidth in a connection coupling the first IP telephone to the first modem.

36. [allowed] The system as recited in claim 35, wherein multimedia information communicated between the WAN and the first IP telephone and the data travel over the connection coupling the first IP telephone to the first modem.

37. [allowed] The system as recited in claim 36, wherein the multimedia information and the data occupy the same bandwidth between the first IP telephone and the first modem.

38. [allowed] The system as recited in claim 35, further comprising:

a router coupling the first IP telephone to the first modem.

39. [allowed] The system as recited in claim 38, further comprising:

a third IP telephone coupled to the router;

a second network device coupled to the first modem via the third IP telephone so that data communicated between the second network device and the first modem is switched through the third IP telephone,

wherein the third IP telephone includes circuitry for throttling the data communicated between the second network device and the first modem so as to increase a bandwidth in a connection coupling the third IP telephone to the first modem.

40. [allowed] The system as recited in claim 37, wherein the multimedia information is communicated over the WAN between the first and second IP telephones.

41. [allowed] The system as recited in claim 35, further comprising:

a second modem for coupling to the WAN, wherein the second IP telephone is coupled to the second modem; and

a second network device coupled to the second modem via the second IP telephone so that data communicated between the second network device and the second modem is switched through the second IP telephone,

wherein the second IP telephone includes circuitry for throttling the data communicated between the second network device and the second modem so as to increase a bandwidth in a connection coupling the second IP telephone to the second modem.

42. [allowed] The system as recited in claim 35, further comprising:

a router coupled to the WAN;

a hub coupled to the router, wherein the second IP telephone is coupled to the router via the hub; and

a second network device coupled to the hub via the second IP telephone,

wherein the second IP telephone includes circuitry for throttling the data communicated between the second network device and the hub so as to increase a bandwidth in a connection coupling the second IP telephone to the hub.

43. [allowed] The system as recited in claim 42, further comprising:

a data server coupled to the hub, wherein the data is communicated between the second network device and the data server.

44. [allowed] The system as recited in claim 43, wherein data is also communicated between the first network device and the data server over the WAN.

45. [allowed] The system as recited in claim 42, further comprising:

a multimedia server for communicating multimedia information between the second IP telephone and public switched telephone network.

46. [allowed] The system as recited in claim 45, wherein multimedia information is also communicated between the first IP telephone and the public switched telephone network over the WAN and via the multimedia server.

EVIDENCE APPENDIX

No evidence was submitted pursuant to §§1.130, 1.131, or 1.132 of 37 C.F.R. or of any other evidence entered by the Examiner and relied upon by Appellants in the Appeal.

RELATED PROCEEDINGS APPENDIX

None.